

Application No. 10/599,807
Amendment dated June 21, 2010
Reply to Office Action dated March 23, 2010

REMARKS

Claims 1-27 are pending. Claims 1-6, 8-10, 17, 18, and 20-27 have been withdrawn.

Applicants respectfully direct the Examiner to the "Notice of References Cited" attached to the Office Action dated March 23, 2010, in which it appears that the citation 2002/0022698 should be 2005/0022698.

Applicants submit that, due to an apparent translation error, the German word "Jod", also designated "J" in the specification and claims, was not translated into the English "Iodine" or "I". Applicants have amended independent Claim 7 and have also amended the specification to correct this.

With respect to the rejection of Claims 7, 11-16, and 19 under 35 U.S.C. §112, second paragraph, as being indefinite, Applicants respectfully submit that independent Claim 7 recites a glass composition that includes certain components that are recited based on percent by weight on an oxide basis, and that such would be clear to one of ordinary skill in the art.

The Examiner rejected Claims 7, 11, 12, 14-16, and 19 under 35 U.S.C. §103(a) as being obvious in view of WO 03/018498 to Fechner et al. in view of U.S. Publication No. 2005/0022698 to Mazany et al. ("Mazany et al. '698"). The Examiner indicated that U.S. Publication No. 2004/0253321 ("Fechner et al. '321") corresponds to WO 03/018498 to Fechner et al. It appears to Applicants that U.S. Publication No. 2005/0064193 ("Fechner et al. '193") also corresponds to WO 03/018498 to Fechner et al, and each of Fechner et al. '321 and Fechner et al. '193 will be discussed below.

Independent Claim 7 calls for a glass composition including $> 66 - 80$ wt.% P_2O_5 .

Fechner et al. '321 discloses a glass composition having 0-1 wt.% P_2O_5 (paragraph [0015]) and teaches in paragraphs [0007] and [0010] that a drawback in existing antimicrobial glass powders is their high phosphorous content, which can exceed 1 wt.%. At paragraph [0061], Fechner et al. '321 indicates that it was surprising for the disclosed compositions to demonstrate an anti-inflammatory effect as it was previously recognized that only phosphorous-containing glasses with a phosphorous content greater than 1 wt.% had an anti-inflammatory effect.

Therefore, Fechner et al. '321 clearly teaches away from glass compositions including greater than 1 wt.% P_2O_5 and for this reason, one of ordinary skill in the art, with no knowledge of the present invention, would not modify the glass composition of Fechner et al. '321 to include > 66 – 80 wt.% P_2O_5 as claimed, either in view of Mazany et al. '698 or any other reference.

Fechner et al. '193 discloses a glass composition having a P_2O_5 content of 0-15 wt.% (Claim 1), *e.g.*, 2-10 wt. (paragraph [0024]), and also teaches in paragraph [0015] that the concentration of P_2O_5 should not be above 16 wt.% as otherwise the chemical stability of the silicate glasses decreases too strongly. Therefore, Fechner et al. '193 teaches away from glass compositions including greater than 16 wt.% P_2O_5 and for this reason, one of ordinary skill in the art, with no knowledge of the present invention, would not modify the glass composition of Fechner et al. '193 to include > 66 – 80 wt.% P_2O_5 as claimed, either in view of Mazany et al. '698 or any other reference.

Independent Claim 7 also calls for an SiO_2 content of 0-10 wt.%.

Fechner et al. '321 discloses a glass composition having a SiO_2 content of 20-80 wt.% (abstract) and teaches in paragraph [0035] that the SiO_2 content is preferably between 35 to 80 wt.%, and that with lower concentrations the hydrolytic resistance is greatly diminished so that the grinding in aqueous media is no longer a guaranteed without significant dissolution of the glass.

Fechner et al. '193 discloses a glass composition having 30-95 wt.% SiO_2 (abstract), *e.g.*, 30-80 wt.% (paragraph [0013]), and also states in paragraph [0013] that at lower concentrations the hydrolytic resistance [de]creases markedly, so that the grindings that can no longer be guaranteed not to dissolve significantly in aqueous media.

Therefore, both Fechner et al. '321 and Fechner et al. '193 fail to disclose a glass composition having the claimed SiO_2 content of 0-10 wt.% and also teach away from an SiO_2 content of less than 20 wt.% (Fechner et al. '321) or less than 30 wt.% (Fechner et al. '193).

For the foregoing reasons, independent Claim 7, as well as the claims depending therefrom, are not anticipated by, nor can be obvious over, either Fechner et al. '321 or Fechner et al. '193, either alone or in combination with any other reference.

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Claims 7, 11, 12, and 14-16 were rejected under 35 U.S.C. §103(a) as being obvious in view of DE 103 22 444 to Aucar et al. ("Aucar et al. '444").

Attached is a machine translation of Aucar et al. '444, which discloses a glass composition having a SiO₂ content of 35-80 wt.%. On the 12th paragraph of page 3 of the machine translation, it is clear that Aucar et al. '444 discloses an SiO₂ content of 35-80 wt.%, and also discloses that disadvantages are realized with lower concentrations.

In this manner, Aucar et al. '444 fails to disclose a glass composition having the claimed SiO₂ content of 0-10 wt.%, and also teaches away from glass compositions having a SiO₂ content lower than 35 wt.%.

Therefore, independent Claim 7, and the claims depending therefrom, are not anticipated by, nor can be obvious in view of, Aucar et al. '444, either alone or in combination with any other reference.

In the event Applicants have overlooked the need for an extension of time, payment of fee, or additional payment of fee, Applicants hereby petition therefore and authorize that any charges be made to Deposit Account No. 02-0385, Baker & Daniels LLP.

Should the Examiner have any questions regarding any of the above, the Examiner is respectfully requested to telephone the undersigned at 260-424-8000.

Respectfully submitted,



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Enc. - Machine Translation of DE 103 22 444